

REMARKS

With entry of this amendment, withdrawn claims 17-25 have been cancelled, thereby leaving claims 1-16 pending in this application. Claims 1-16 stand rejected. No claims have been amended in response to any current or future anticipated rejection, based on prior art or otherwise. Based on the foregoing amendments and following remarks, reconsideration and allowance of this application is respectfully requested.

Claim Rejections-35 U.S.C. §103

Edwards and VanTassel

Claims 1-4 and 6-15 stand rejected under 35 U.S.C. §103, as being obvious over U.S. Patent No. 6,071,280 issued to Edwards, et al. ("Edwards") in view of U.S. Patent No. 6,241,710 issued to VanTassel, et al. ("VanTassel"). Applicant respectfully traverses this rejection, since neither Edwards nor VanTassel disclose, teach, or suggest the combination of elements required by these claims.

In concluding that independent claims 1 and 10 are obvious, the Examiner combined the porous hypodermic needle disclosed in VanTassel with the electrosurgical probe of Edwards. However, VanTassel is not analogous prior art that can be properly used in combination with Edwards, since it is neither in the field of Applicant's endeavor nor is it reasonably pertinent to the particular problem with which the inventors were concerned. In particular, the field of Applicant's endeavor is the ablative treatment of tumors, whereas the field that VanTassel is concerned with is the injection of medicaments into tissue. The particular problem with which the inventors were concerned with is maximizing the size of therapeutic ablations, whereas the particular problem solved by VanTassel was providing a means for microinjecting controlled amounts of injectate to minimize leakage otherwise due

to the rapid transfer of fluid. Thus, it can be appreciated that Applicant's and VanTassel's endeavors are in completely different fields and are concerned with entirely different problems. As such, it is believed that VanTassel cannot be properly combined with Edwards to form a basis for rejecting claims 1 and 10.

However, even if VanTassel were somehow considered to be analogous prior art, there is no suggestion in VanTassel to modify the Edwards ablation device in the manner proposed by the Examiner. As previously discussed above, VanTassel teaches the use of a porous hypodermic needle in order to microinject medicament into tissue, so that rapid fluid transfer is prevented (see col. 2, lines 18-32), and teaches nothing about RF tissue ablation or the effects of electrically conducive fluid perfusion on RF tissue ablation. There is simply no suggestion from this that electrically conductive fluid can be perfused from an RF ablation probe with porous needle electrodes to increase the size of the resulting ablation or provide any other advantage associated with RF ablation probes, such as increasing the echogenicity of the ablation probe (see page 28, line 7 to page 29, line 2). Only after reading Applicant's specification would one of ordinary skill in the art realize that the use of pores, such as those disclosed in VanTassel, can be used to more efficiently perfuse electrically conductive fluid into tissue to increase the size of a resulting tissue ablation or provide any other advantages associated with RF ablation.

Thus, Applicant submits that independent claims 1 and 10, as well as the claims depending therefrom (claims 2-4, 6-9, and 11-15), are not obvious over Edwards in view of VanTassel, and as such, respectfully request withdrawal of the §103 rejections of these claims.

Edwards, VanTassel, and Rangaswamy/Kirsch

Claims 5 and 16 stand rejected under 35 U.S.C. §103, as being obvious over Edwards, in view of VanTassel, and in further view of either U.S. Patent No. 4,512,768 issued to Rangaswamy ("Rangawamy") or U.S. Patent No. 6,503,225 issued to Kirsch, et al. ("Kirsch"). Applicant respectfully traverses this rejection, since none of Edwards, VanTassel, Rangawamy, or Kirsch, alone or in combination, discloses, teaches, or suggests the combination of elements required by independent claims 1 and 10 from which claims 5 and 16 depend.

In particular, as discussed above, it is believed that VanTassel cannot be properly combined with Edwards to form a basis for rejecting independent claims 1 and 10, or at the least, does not provide any teaching or suggestion to modify the Edwards ablation probe in the manner required by these claims, and neither of Rangaswamy or Kirsch supplements this failed teaching. Thus, Applicant submits that dependent claims 5 and 12 are not obvious over any combination of Edwards, VanTassel, Rangaswamy, and Kirsch, and as such, respectfully request withdrawal of the §103 rejections of these claims.

Conclusion

Based on the foregoing, it is believed that all claims are now allowable and a Notice of Allowance is respectfully requested. If the Examiner has any questions or comments

regarding this amendment, the Examiner is respectfully requested to contact the undersigned at (949) 939-1777.

Respectfully submitted,

**VISTA IP LAW GROUP LLP**

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By:



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